

REMARKS

The Office Action dated April 24, 2009 has been received and carefully noted. The above amendments to the claims, and the following remarks, are submitted as a full and complete response thereto.

Claim 17 has been amended to more particularly point out and distinctly claim the subject matter of the invention. Claim 40 has been cancelled without prejudice or disclaimer. No new matter has been added and no new issues are raised which require further consideration or search. Claims 1-17, 19-21 and 39 are respectfully submitted for reconsideration.

The Office Action rejected claim 40 under 35 U.S.C. §101 for allegedly being directed to non-statutory subject matter. Claim 40 has been cancelled thus rendering this rejection moot. Withdrawal of the rejection is kindly requested.

Claims 17, 19-21 and 40 were rejected under 35 U.S.C. §112, first paragraph for allegedly failing to be supported by the specification as filed. Claim 40 has been cancelled thus rendering the rejection thereof moot. As for claim 17 and dependent claims 19-21, Applicant submits that the subject matter currently recited in claim 17 is supported by the specification as filed.

With regard to claim 17, the Office Action alleged that “a processor” is new matter and is not supported by the specification. Applicant submits that the “encoder” is configured to perform multiple operations within the hardware of a mobile station device or apparatus. For example, page 8 of the specification as filed discloses an example

where a “speech encoder module” 111 is part of the mobile station and receives speech signals 110. Similarly, the “speech encoder modules” (i.e., 206 of FIG. 2 and 405 of FIG. 5) are also configured to receive speech signals. Although, this example illustrates the speech encoder module 111 of the cellular communication network of FIG. 1, for simplification purposes, further discussion with regard to the hardware associated with the “speech encoder module” was omitted.

One skilled in the art would recognize that the “speech encoder module”, or, simply just “encoder”, recited in claim 17 is part of a network communications element, such as, the mobile station. Therefore, the “encoder” recited in claim 17 is part of a hardware device and is certainly part of the specification as filed. Accordingly, claim 17 is in compliance with the written description requirement of 35 U.S.C. §112, first paragraph. Withdrawal of the rejection of claims 17 and 19-21 is kindly requested.

As discussed above, each of claims 1-17, 19-21 and 39 have overcome all outstanding rejections and are in condition for allowance. It is respectfully requested that independent claims 1, 17 and 39 and the related dependent claims be allowed in view of the above arguments comments and remarks.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, the Applicant’s undersigned representative at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

In the event this paper is not being timely filed, the Applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,



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